

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6208**

**BILL NUMBER:** SB 81

**NOTE PREPARED:** Feb 25, 2010

**BILL AMENDED:** Feb 22, 2010

**SUBJECT:** Various Criminal Law Matters..

**FIRST AUTHOR:** Sen. Arnold

**FIRST SPONSOR:** Rep. L. Lawson

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:** ☒ **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) This bill has the following provisions:

- A. *Criminal Law and Sentencing Policy Study Committee* – It establishes the 13-member criminal law and sentencing policy study committee to evaluate criminal laws and sentencing policies. It repeals laws establishing the Sentencing Policy Study Committee.
- B. *Resisting Law Enforcement and License Suspension* – It provides that the driver's license of a person convicted of resisting law enforcement while using a vehicle and: (1) exceeding the speed limit by at least 20 miles per hour; (2) committing criminal recklessness; or (3) engaging in reckless driving with a vehicle; may be suspended for one year for a first offense and two years for a second or subsequent offense.
- C. *License Suspension* – It provides that if a person receives a sentence that includes: (1) a term of incarceration; and (2) a driver's license suspension; the driver's license suspension begins on the date the person is released from incarceration and not on the date the person is convicted.
- D. *Hardship License* – It specifies in which court a petition for a hardship license must be filed. It requires the court to notify the Bureau of Motor Vehicles (BMV) of the person's conviction, and specifies that the convicted person has the burden of applying for a new or renewal license and establishing that the one-year or two-year period has elapsed.

**Effective Date:** Upon passage; July 1, 2010.

**Explanation of State Expenditures:** *Criminal Law and Sentencing Policy Study Committee* – This bill establishes a 13-member study committee consisting of eight legislators, one person who has experience in administering probation programs, one trial court judge, the executive directors of the Prosecuting Attorneys

Council and the Public Defender Council, and the commissioner of the Department of Correction, who will be a nonvoting member. The committee is to operate under the policies governing study committees adopted by the Legislative Council. Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

Under current law, the authorizing statute for the Sentencing Policy Study Committee was scheduled to expire on December 31, 2010. Consequently, this bill would be a continuation of past committee expenditures and not new expenditures for FY 2011.

The Indiana Criminal Justice Institute and the Legislative Services Agency would provide staff support to the committee.

*Resisting Law Enforcement and License Suspension* – For the BMV, the suspensions required in this proposal will be handled under current suspension procedures and will require no additional expenditures on the part of the BMV. The fund affected is the Motor Vehicle Highway Account, which supports the BMV. The BMV has averaged about 328,000 suspensions annually for the period CY 2004 through CY 2008.

(Revised) *Hardship License* – For calendar years 2005 through 2008, the BMV suspended, on average, 2,450 driver's licenses for being a habitual traffic offender. For the same period, the BMV averaged 350,000 total suspensions annually. For CY 2009, the BMV issued 784 hardship licenses and 790 licenses requiring the use of an ignition interlock device. The provisions of this proposal would be covered with current resources. The fund affected is the Motor Vehicle Highway Account, which supports the BMV.

#### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** (Revised) *Hardship License* – Requiring ignition interlock devices would result in minimal costs to counties. Counties do not incur additional costs when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their vehicle pay the entire cost of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. While current law does not require indigent persons convicted of being a habitual traffic violator to pay the cost of installing and maintaining an ignition interlock device, courts are not required to pay the cost of installing and maintaining an ignition interlock device, either.

Not all counties in which the hardship licenses were issued also had ignition interlock orders in CY 2009. When examining the number of counties in which courts had issued hardship licenses, LSA found that 17 counties did not have ignition interlock orders for any persons with hardship licenses. The average number of hardship licenses issued in these counties was 3.3, with a range from 1 to 16 hardship licenses ordered. Whether these counties would have any difficulty arranging for ignition interlock service with a vendor is not known.

#### **Explanation of Local Revenues:**

**State Agencies Affected:** Indiana Criminal Justice Institute; Legislative Services Agency; BMV.

**Local Agencies Affected:** Courts.

**Information Sources:** BMV driver license data.

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